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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/787,339	03/16/2001	Arnoldus Werner Johannes Oomen	PHN 17.547	8265

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

EXAMINER

PATEL, GAUTAM

ART UNIT	PAPER NUMBER
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2655

DATE MAILED: 07/11/2003

5

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/787,339

Applicant(s)

Oomen et al.



Examiner

Gautam R. Patel

Art Unit

2655



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Jun 9, 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above, claim(s) 9-11, 15-17, 25, and 26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 12-14, and 18-21 is/are rejected.
- 7) ☒ Claim(s) 4-8 and 22-24 is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 5 6) ☐ Other:

DETAILED ACTION

1. Claims 1-26 were pending for the examination. Claims 1-8, 12-14 and 18-24 were elected for examination. Action on these claims follows.

Priority

2. Receipt is acknowledged of papers submitted under 35 U.S.C. § 119(a)-(d), which papers have been placed of record in the file.

Election/Restriction

3. Claims 9-11, 15-17 and 25-26 are withdrawn from further consideration by the examiner, 37 C.F.R. § 1.142(b) as being drawn to figs. 3-6, for species B and C. It assumed that election was made without traverse, [in paper no. 4, dated 6-9-03] of claims 1-8, 12-14 and 18-24, since the Applicant is silent about traverse.

The Applicant argues as follows:

Applicant believes that claims 1-7, 12-13 and 18-23 are generic to all species.

And "the examiner should examine all the claims to all species in this application, because there is not an unreasonable number of species ...".

This is not found persuasive because, the Examiner does not need to show what is reasonable number of species, and

As to the argument regrading all claims are generic. It should be pointed out that figs, 1-2 does not have material disclosed in figs,. 3-6 and does not disclose units 306, 402, 506 or 602 and associated details at all. Therefore claims 1-7, 12-13 and 18-23 are NOT generic.

The requirement is still deemed proper and is therefore made **FINAL**.

Applicant is reminded that upon the **cancellation of claims to a non-elected invention, the inventorship must be amended** in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).

NOTES & REMARKS

4. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which Applicant may become aware in the specification.

The Applicants are urged to put the application in more formal format that corresponds to US patents. For example, headings like title, background, summary of invention, detail description etc., are missing. Abstract is in wrong format. Claims dependence is wrong in several places.

Applicants are reminded that if and when patent is issued on this application, mistakes may make it difficult to enforce the patent and ignoring procedures may get application abandoned.

Specification

5. The disclosure is objected for following reasons.

a. This application does not contain an Abstract of the Disclosure as required by 37 C.F.R. § 1.72(b). **An Abstract on a separate sheet in single paragraph is required.**

b. Applicant is reminded of the *proper language* and **format** of an Abstract of the Disclosure.

The abstract should be in narrative form and generally limited to **a single paragraph on a separate sheet within the range of 50 to 150 words**. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said", should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

In the present application, abstract is vague and in two paragraphs. What is new, what is invention and what are the advantages is not described.

c. The title of the invention is neither precise nor descriptive. A new title is required which should include, using twenty words or fewer, claimed features that differentiate the invention from the Prior Art. It is recommended that the title should reflect the gist of or the improvement of the present invention.

Corrections are required.

Claim Objections

6. Claims objected for following reasons. Multiple dependent claims depending on other multiple dependent claims. Hybrid claim.

a. Claims 4-8 and 22-24 are objected to under 37 CFR 1.75(c) as being in improper form because they depend on multiple dependent claims 3 and 21 respectively. See MPEP § 608.01(n). Accordingly, the claims 5-8 and 22-24 have not been further treated on the merits.

b. Claim 18 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 18 is hybrid claim, in which the Applicants are trying to claim an apparatus while claim 18 depends on a method claim. If claim 18 is an independent claim it should be written in an independent form, including all the limitations of claims 12-17 and appropriate fees should be paid for extra independent claims if necessary and/or required.

Corrections are required.

Claim Rejections - 35 U.S.C. § 112

7. The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 18 is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 18, lines 1-2 "Recording apparatus for carrying out the method as claimed in anyone of the claims 12 to 17", is confusing and unclear. Since all of the above claims are method claims it is not clear how can an apparatus be part of a method step.

Claim Rejections - 35 U.S.C. § 103

8. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1 and 12 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Ueno et al., US. patent 5,506,907 (hereafter Ueno).

As to claim 1, Ueno, discloses the invention as claimed [see Figs. 1-18, especially 11], including stereo and data signal, first portion and remaining portion comprising:

A record carrier [col. 15, lines 25-46] carrying a stereo signal and a data signal, said stereo signal being recorded in a first channel, characterized in that the data signal comprises a first portion and a remaining portion, said first portion being combined with said stereo signal to obtain a composite signal [fig. 11, unit 113a] being recorded in a channel on said record carrier and the remaining portion being recorded in a second channel on said record carrier [col. 3, lines 38-59 and col. 7, line 53 to col. 8, line 34].

Ueno discloses all of the above elements including recording in different channels such as first and second. Ueno does not specifically disclose that the composite signal is recorded back into the first channel to the extent claimed. The

limitations in claim 1 does not define a patentable distinct invention over that in Ueno since both the invention as a whole and Ueno are directed to separating and combining different audio channels. The channel in which the composite signal being recorded presents no new or unexpected results, so long as the data is recorded and placed in different place from the remaining portion of the signal. If one has less number of tracks or channels same channel will be used so control signal does not have to change the address of the location of the original channel. And if one has more number of tracks or channels a separate channel will be used for storage so original signal can be preserved for further treatment. Therefore, to have stored composite signal in the same first channel would have been routine experimentation and optimization in the absence of criticality.

9. As to claim 12 it is method claim corresponding to claim 1 and it is therefore rejected for the similar reasons set forth in the rejection of claim 1, supra.
10. Claims 2-3, 13-14 and 20 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Ueno as applied to claims 1 and 12 above, and further in view of Moskowitz et al., US. patent 5,889,868 (hereafter Moskowitz).

As to claim 2. Ueno discloses all of the above elements, including combining first portion with stereo signal. Ueno does not specifically discloses that combination is done using buried data techniques.

However, it is well known in the art that most combinations of these types of signals now a days are done using well known buried data techniques because this technique provides a method for inserting a known channel such that it leaves almost no perceivable artifacts in the content of the signal. Also Moskowitz clearly discloses that it well known in the art to use buried data techniques for combining the signals [col. 8, line 65 to col. 9, line 30]. Both Ueno and Moskowitz show techniques for manipulating data in most efficient way. Both describes inserting data into main data.

One of ordinary skill in the art at the time of invention would have realized that the insertion of data into a known channel would be increase the size of the channel and it would be advantageous to insert the new data or information into the channel such that it will leave no perceivable artifacts in the content signal. Therefore, it would have been obvious to have used the buried data techniques in the system of Ueno as taught by Moskowitz because one would be motivated to reduce artifacts in the content signal in the system of Ueno and provide better quality signal controls and improve addressing capability by providing exact location of the information [col. 9, lines 10-15; Moskowitz].

11. As to claim 3, Ueno discloses:

the data signal comprises a data compressed multichannel extension signal being a representation of a multichannel extension signal [col. 1, lines 26-43 and col. 15, lines 25-46].

12. As to claims 13-14, they are method claims corresponding to claims 2-3 respectively and they are therefore rejected for the similar reasons set forth in the rejection of claims 2-3 respectively, supra.

13. Claims 19-21 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Ueno and Moskowitz as applied to claims 1-3 and 12-14 above, and further in view of Balston et al., US. patent 4,672,600 (hereafter Balston).

As to claim 19 it is rejected for the similar reasons as claim 1, combination of Ueno and Moskowitz discloses all of the above elements, including a first reading means, for reading first reproduction signal from a first channel and means for extracting first portion of data signal and combining means for combining first portion and remaining portion and reproducing a stereo signal. Combination of Ueno and

Moskowitz does not specifically disclose the second reading means for reading remaining portion of the data signal that could be used in his system.

However, it is well known in the art that use of dual head in optical system is useful for many different reasons. Also Balston clearly discloses use of two heads or dual heads [second reading means]. Both combination of Ueno and Moskowitz and Balston are interested in improving the read/write mechanism of a disc by providing various ways to improve the speed of reading and writing on an optical disc.

One of ordinary skill in the art at the time of invention would have realized that it would be advantageous to access the memory data on the disc quickly and accurately. Therefore, it would have been obvious to have used a dual head design in the system of Ueno and Moskowitz as taught by Balston because one would be motivated to improve the speed and accuracy of obtaining the signals from the memory [col. 5, lines 37-48].

14. As to claim 20, it is rejected for the similar reasons set forth in the rejection of claim 2, supra.
15. As to claim 21, Ueno discloses:
decompressing means for decompressing the data compressed multichannel extension signal into a multichannel extension signal [col. 2, lines 6-14].
16. A search based on the best understanding of the claims has been made to find the most pertinent art, but no statement about invention will be appropriate at this time regarding the allowableness of claims 4-8, 18 and 22-24, and no art rejection will be made in this office action regarding the claims 4-8, 18 and 22-24, due to the speculation required to interpret the claims because of their indefiniteness under 35 U.S.C. 112, 1st and 2nd paragraphs, and/or improper dependence as noted above (see In re Steele, 134 USPQ 292).

Other prior art cited

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
- a. Brennan et al. (US. patent 6,236,731) "Filterbank structure and method ..".
 - b. Eberlein et al. (US. patent 6,314,289) "Apparatus and method ..".
 - c. Tsutsui (US. patent 5,832,424) "Speech or audio encoding ..".
 - d. Herre (US. patent 5,812,971) "Enhanced joint stereo coding ..".
 - e. Lee (US. patent 5,590,204) "Device for reproducing 2-channel sound field ..".
 - f. Hawks (US. patent 5,850,454) "Method and apparatus for spatially enhancing stereo and monophonic signals".
 - g. Nakano et al. (US. patent 4,583,132) "Recording/reproducing apparatus ..".
 - h. Oshima et al. (US. patent 6,574,423) "High-resolution optical disk ...".

Contact information

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gautam R. Patel whose telephone number is (703) 308-7940. The examiner can normally be reached on Monday through Thursday from 7:30 to 6.

The appropriate fax number for the organization (Group 2650) where this application or proceeding is assigned is (703) 872-9314.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Doris To can be reached on (703) 305-4827.

Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 305-4700 or the group Customer Service section whose telephone number is (703) 306-0377.



Gautam R. Patel
Patent Examiner
Group Art Unit 2655

July 2, 2003